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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,001	08/22/2001	William Lunceford Barnett	50603-3	1108
7590	02/05/2004		EXAMINER	
STEVEN R GREENFIELD JENKENS & GILCHRIST 1445 ROSS AVENUE SUITE 3200 DALLAS, TX 75202-2799			BUTLER, DOUGLAS C	
			ART UNIT	PAPER NUMBER
			3683	
DATE MAILED: 02/05/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/938,001	BARNETT, WILLIAM LUNCEFORD	
	Examiner Douglas C. Butler	Art Unit 3683	MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 04 November 2003.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1,2,4,5,7,8,10-16 and 18-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,4,5,7,8,10-16 and 18-22 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
 a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ .                                   |

**DETAILED ACTION**

1. Claims 3, 6, 9 and 17 have been canceled.
2. Claims 1-2, 4-5, 7-8, 10-16 and 18-22 are pending.
3. It appears that BRAKESMART is a trademark and should be designated as such in box 175 of instant Fig. 5.
4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no clear antecedent basis in the claims for the "towed vehicle brakes" of claim 14, last line.

6. Claims 15, 16 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There are no clear antecedent basis in the claims for "said CPU" of claim 15, line 7 and "said towing vehicle brakes" of claim 15, lines 9-10.

*Re claim 16, "a brake activator" is doubly recited at line 3. See parent claim 15, line 6 which recites "a brake activator". In claim 16, line 3 "a" should be changed to -- said -- before "brake activator".*

*Re claim 18, line 3 "a CPU" is recited. The noted recitation in claim 18 should be correlated with the recitation of a "CPU" in parent claim 15, line 17.*

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7. Typographical inconsistencies:

A. In claim 11, line 3, claim 12, line 2 and claim 13, line 3 "controller" should be changed to -- control -- to be consistent with the recitation of "brake control unit" in parent claim 1, line 4.

B. In claim 20, line 2 and claim 21, line 3 "system" should be deleted after "trailer brake"

to be consistent with the recitation of "trailer brake" in claim 19, line 5.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claim s 1, 2, 4-5, 7-8, 10-16, 19-20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Frait (4398252), newly cited.

Fig. 1 of Frait discloses a brake controller system including master cylinder 13, master cylinder brake pressure sensor 16, electrically actuated trailer brakes 19, 20, CPU on brake control unit 17. Elements 26, 27, 34 are readable as the "voltage booster" in that operation of 26, 27, 34 gives an additional supply of voltage or current to the electrical brake as per column 3, lines 40-68 of Frait.

10. Claims 18, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frait (4398252) in view of Rossigno (3790807).

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*principle*  
The *principle* reference Frait discloses the invention substantially as claimed but does not disclose the feature directed to the visually displaying information of the brake operation of the trailer to apprise the operator in the tractor.

*v3*  
The secondary reference to Rossigno(3790807) teaches a visual indicator 170 for permitting the vehicle operator to know when the trailer brakes have been activated.

*v3*  
It would have been obvious at the time the invention was made to one having ordinary skill in the art to which the invention pertains to modify the principal reference to Becker et al (4295687) to include a visual brake and display/control panel indicator as taught by Rossigno(3790807) to permit the vehicle operator to know when the trailer brakes have been activated.

11. Greentree (3486799) discloses boosting voltage to electrically operated trailer brakes 30, 30a of Figs. 1-2 by way of manual switch S58 as per column 3, lines 34-47. Operation of brake pedal 28 actuates the trailer electric brakes by master cylinder 21, stop light switch S40 and deceleration unit 34.

12. Applicant's arguments have been considered but are most in view of the new ground of rejection.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas Butler whose telephone number is (703) 308-2575. The examiner can normally be reached on Monday to Friday from 5:30 a.m. to 2:00 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Lavinder, can be reached on (703) 308-3421. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number (703) 308-1113.

Butler/vs  
February 2, 2004

DOUGLAS C. BUTLER  
PRIMARY EXAMINER

